IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 4976 of 2007()

[CRIME NO.412/2007 OF VARKALA POLICE STATION]

PETITIONER/2ND ACCUSED

SIVADASAN, AGED 65 YEARS,
S/O. VAIRAVAN,NARIKKUNNUVILA VEEDU,
MELVETTOOR P.O.,
CHERUNNIYOOR VILLAGE.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.NIYAS A.SALAM
SRI.A.S.SABU

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4976 of 2007

Dated this the 13th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. The crime is registered under Section 420 read with 34 I.P.C. The first accused is the son of the second accused. The petitioner/second accused had earlier filed a complaint under Section 138 of the Negotiable Instruments Act against the de facto complainant herein. As a counter blast against the said proceedings initiated by the second respondent, the de facto complainant, the accused in that case, has allegedly filed a private complaint before the learned Magistrate. That has been referred to the police under Section 156(3) Cr.P.C for investigation. Crime has been registered. Investigation is in progress. The petitioner/second accused apprehends imminent arrest. The first accused, that is the son of the petitioner, is not available in India now.

2. The learned counsel for the petitioner submits that the proceedings initiated is nothing but transparent abuse of the

process of the court. Merely because the petitioner had initiated the proceedings under Section 138 of the Negotiable Instruments Act, the present complaint has been filed against not only the petitioner but also his son employed abroad. It is prayed that anticipatory bail may be granted to the petitioner.

3. The learned Public Prosecutor does not oppose the said prayer and in the circumstances to which I have made brief reference already, I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 20/8/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m

and 12 noon on 21/08/2007 and 22/08/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of one month and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 20/8/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 27/7/2007.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007